

Military personnel are not exempt from taxation in Illinois. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

December 28, 1998

Dear Mr. Xxxxx:

This letter is in response to your faxed letter dated December 18, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am in receipt of a copy of your letter dated December 16, 1998, addressed to PERSON, regarding the above-referenced transaction, and I am writing in follow-up to our telephone conversation of this date. Specifically, the facts as related to you by PERSON are inaccurate. When PERSON purchased the 1995 Jeep Wrangler on July 22, 1998, he stated that he was stationed in the military in BASE, that he planned to register the vehicle in STATE, and that he was exempt from sales taxation. He was advised by COMPANY associates that it was their understanding that in some situations servicemen may be exempt from personal property tax, but are required to pay sales tax like any other citizens. PERSON disagreed, and therefore he was not charged Illinois state tax and was provided the paperwork to enable him to go to the STATE DMV and title the car in STATE.

It is our understanding that PERSON went to the STATE DMV and determined that he was not able to avoid paying the STATE sales tax. PERSON then began a series of phone calls to the Naperville office trying to make COMPANY pay the sales tax on the vehicle. PERSON'S argument was that because he paid \$48.00 for 'license plates,' and \$13.00 for a 'title fee', he himself was not obligated any further in the way of taxes. He stated that since COMPANY did not collect the taxes from him at that time, it was now COMPANY'S responsibility to pay them. PERSON'S Consumer Complaint to the Illinois State Attorney General dated October 23, 1998 indicates the same.

That is why I was surprised when I reviewed your letter today and saw that PERSON stated that he had 'told COMPANY repeatedly that I have no problem paying the sales tax of \$1,053.00....' That is good news to hear, and by copy of this letter, I encourage PERSON1 to send that sales tax in immediately. As I advised you, COMPANY, in the interest of resolving this matter, would agree to pay the penalty fee should it be assessed.

In regard to the penalty fee, however, as I related to you, the reason that the Form ST-556 was not initially filed was the confusion on the part of our titling office once PERSON had been allowed to take his own paperwork with him to STATE. As I related to you in our conversation and in this letter, if the penalty fee is required to be

paid, COMPANY will pay it. However, on behalf of COMPANY, I request an abatement of the penalty considering the circumstances existing here.

To help you in making your decision regarding the penalty, I enclosed herewith a copy of the ST-556 Form as initially executed by PERSON and COMPANY. If you review that ST-556 you will see that the parties agreed on July 22 that there would be no amount due for tax penalty and interest. The photocopied adding machine tape showed the calculations that were made by the titling office once the telephone campaign with PERSON began showing how much is required, including the penalty. I am also including a copy of a letter dated September 25, 1998 that Kristi Snow, a paralegal in our department, sent to PERSON regarding the tax due. Finally, I am enclosing a copy of PERSON's Consumer Complaint and COMPANY's December 1, 1998 response.

I appreciate your reviewing the enclosures. I can be reached at the above-referenced address and telephone number, and I look forward to speaking with you at your convenience.

I appreciated your letter and the explanation you provided. When PERSON pays his Use Tax liability and you send in the ST-556, please include a letter requesting a "reasonable cause determination" and abatement of the penalty. This letter should set forth the facts that you sent me. The letter and the ST-556 will be forwarded for a reasonable cause review. Having the letter and the ST-556 in the same package ensures a prompt review. After the review, a letter will be sent to inform you of the outcome.

I have enclosed a copy of publication ST-9 for your information. Please note that military personnel are not exempt from taxation in Illinois. If Illinois is the home state of record for such personnel, they owe tax on their purchases as any other Illinois resident would.

I have forwarded a copy of your letter and attachments to our Audit Bureau for their information as a follow up to PERSON's letter and the Department's response.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.